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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,223	08/28/2003	Chiyumi Niwa	B422-241	6354

26272 7590 11/29/2007
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NEW YORK, NY 10036

EXAMINER

LAM, HUNG H

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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11/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/650,223	Applicant(s) NIWA, CHIYUMI	
	Examiner Hung H. Lam	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendments, filed on 09/12/2007, have been entered and made of record. Claims 1-10 are pending.

In view of the Applicants amendment to the title, the objection is hereby withdrawn.

Response to Arguments

2. Applicant's arguments filed 09/12/07 have been fully considered but they are not persuasive.

The Applicants argue that Kudo reference fails to teach that the mode dial 206 is arranged to be forced so as to be suppressed to a third position different from each of the first and second mode positions when the operation member is not operated by a user. The Examiner respectfully disagrees. The claim language does not specifically require that the operation member itself is automatically forced to be suppressed to a third position different from each of the first and second position when said operation member is not operated by a user. Therefore, the claim language does not precluding a camera user in Kudo reference to inherently suppress the dial 206 into an off position which is different than the playback or camera position when the user decides not to operate on the camera or dial 206 (Fig. 3; see dial 206 and off position; 0051-0063).

The Applicants also argue that Kudo reference fails to teach or suggest control means for changing control to said image pickup apparatus according to a current mode thereof and one of

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the first position, and the second position, to which said operation member is operated from the third position and there is no teaching of suggestion that it is also is based on the current mode of the camera apparatus. However, the Examiner respectfully disagrees. Kudo teaches dial 206 having playback, camera, and off mode (see Fig. 3). Therefore, it is inherent that when the dial 206 is dialed to camera, off or playback mode, the microcomputer 107 controls the image pickup apparatus according to the current dialed mode (0049-0069).

In view of the above, the Examiner believes that the broadest interpretation of the present claimed invention does in fact read on the cited reference for at least the reasons discussed above and as stated in the detail Office Action as follows.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 3 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kudo (US-2005/0,225,652).

It is noted that the USPTO considers the Applicant's "one of" language to be anticipated by any reference containing one of the subsequent corresponding elements.

With regarding **claim 1**, Kudo discloses an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image, said apparatus comprising:

an operation member which is switched to said first mode according to an operation to a first position (Fig. 3; see dial 206 and camera position), and is switched to said second mode according to an operation to a second position (Fig. 3; see dial 206 and playback position), and further is forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user (Fig. 3; see dial 206 and off position; 0051-0069; the dial 206 is inherently suppressed into an off position by a camera user when the user decides not to operate on the camera or dial 206); and

control means (Fig. 1; micro computer 107) for changing control to said image pickup apparatus according to a current mode thereof and one of the first and second position to which said operation member is operated from the third position (0057-0063).

With regarding **claim 3**, Kudo discloses an image pickup apparatus wherein in case that said image pickup apparatus is in an electric power off state (see Fig. 3; dial 206 and the off position), said control means turns electric power on according to a mode switching operation of said operation member and starts up said image pickup apparatus in a mode corresponding to a position operated in the mode switching operation (0051-0053).

With regarding **claim 7**, Kudo discloses an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image, said apparatus comprising:

an operation member which is switched to said first mode according to an operation to a first position (Fig. 3; see dial 206 and camera position), and is switched to said second mode according to an operation to a second position (Fig. 3; see dial 206 and playback position), and further is forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user (Fig. 3; see dial 206 and off position; 0051-0069; the dial 206 is inherently suppressed into an off position by a camera user when the user decides not to operate on the camera or dial 206); and

control means (Fig. 1; micro computer 107) for turning electric power of said image pickup apparatus on and determines an operating mode according to one of the first position and second position, to which said operation member is operated from the third position(0057-0063), when said operation member is operated in a state in which the electric power of said image pickup apparatus is off operations (Fig. 3; see dial 206 and off position; 0051-0053).

With regarding **claim 8**, the claim is a method claim of the apparatus claim 1. Therefore, claim 8 is analyzed and rejected as previously discussed in claim 1.

With regarding **claim 9**, the claim is a method claim of the apparatus claim 7. Therefore, claim 9 is analyzed and rejected as previously discussed in claim 7.

With regarding **claim 10**, Kudo discloses a storage medium computer-readably storing a program comprising a program code for causing a computer to execute (0057) said control method of an image pickup apparatus according to claim 8 (see the rejection of claim 8 and/or 1).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo.

With regarding **claim 5**, Kudo fails to explicitly disclose an image pickup apparatus wherein in a state of said first mode, said control means switches to a mode different in photographing format from that of said first mode according to the operation of said operation member to said first position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different photographing format such that one of the wide angle, telephoto angle, landscape and portrait format. Therefore, it would have been obvious to one of ordinary skill in the art to modify the device of Kudo to switch to different photographing format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, “an image pickup apparatus wherein in a state of said first mode, said control means switches to a mode different in photographing format from that of said first mode according to the operation of

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said operation member to said first position” is now taken as admitted prior art. See MPEP 2144.03(c).

With regarding **claim 6**, Kudo fails to explicitly an image pickup apparatus according to claim 1, wherein position in a state of said second mode, said control means switches to a mode different in reproduction format from that of said second mode according to the operation of said operation member to said second position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different reproduction format such that one of the quick review and slide slow. Therefore, it would have been obvious to one of ordinary skill in the art to modify the device of Kudo to switch to different reproduction format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, “wherein position in a state of said second mode, said control means switches to a mode different in reproduction format from that of said second mode according to the operation of said operation member to said second position” is now taken as admitted prior art. See MPEP 2144.03(c).

7. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo in view of Ejima (US-2002/0,008,765).

Regarding **claim 2**, Kudo fails to explicitly disclose an image pickup apparatus according to claim 1, wherein during said second mode, said control means shifts said second mode to said

first mode without operating said operation member, and according to an operation of an operation member related to photographing, different from said operation member related to the first and second modes.

In the same field of endeavor, Ejima teaches a camera which performs a photographing operation immediately by operating a shutter release button (5) even in the quick review mode (0095-0096). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Kudo to perform a photographing operation even in the quick review mode. The modifications thus allow a digital camera to capture any desired images at any instances.

With regarding **claim 4**, Kudo fails to explicitly disclose an image pickup apparatus according to claim 1, wherein said control means withdraws a lens barrel according to the operation to said second position by means of said operation member, when said lens barrel is fed forward in a state of said second mode.

In the same field of endeavor, Ejima teaches a camera wherein a photographing zoom lens 2, which has been driven out retracts to the state shown in Fig. 1A if the electronic still camera 1 is switched to the reproduction mode (0038; 0053). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Kudo to retract a photographing zoom lens in the reproduction mode. The modifications thus provide a means for protecting the photographing zoom lens while images are reviewed.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung H. Lam whose telephone number is 571-272-7367. The examiner can normally be reached on Monday - Friday 8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LIN YE can be reached on 571-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HL

11/19/07

A handwritten signature in black ink, appearing to read 'Lin Ye', with a long horizontal flourish extending to the right.

LIN YE
SUPERVISORY PATENT EXAMINER